From: eyebum
To: Microsoft ATR
Date: 1/23/02 10:18am
Subject: Microsoft Settlement

My name is Chris Sexton. I am a US resident.
I am not employed by Microsoft or any of its competition.
I want to independantly add my voice on the Microsoft Antitrust settlement decision.

I think that the court decision should comprise a suitable punishment for Microsoft's demonstrated past and continuing behaviour, and serve as an effective deterant against continued anti-trust abuses by the company. It should be harsh, reflective of the abandonment of law that Microsoft has demonstrated.

According to the Court of Appeals ruling, "a remedies decree in an antitrust case must seek to 'unfetter a market from anticompetitive conduct', to 'terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future" (section V.D., p. 99).

I believe in free and fair trade. If Microsoft truly had a superior product offering that they offered to the public via competition alone, I would hope for market domination.

Yet Microsoft has not only ignored the rules of fair trade, when they are asked to provide a settlement on the issue, they offer up a farce that extends their monopoly, while preying on the idea that they are enabling and assisting the disenfranchised. Suddenly the government is a bad guy when they deny Microsoft their custom, swanky "briar patch".

Though I am often critical and even cynical when it comes to the government, I am hopeful that the court will see fit to come down hard on Microsoft. The implications of the computer and the internet have already changed our lives, and will do so in increasingly bigger ways in the future. To allow one company to control this through its illegal behaviour is simply not acceptable.

The computer industry is one which changes daily-innovations and new technology are ever forthcoming at a rate which is nearly incomprehensible compared to a legal proceeding. Microsoft would further line its coffers with its unlawful practices while delaying the outcome of this case, no matter what.

There are many problems with the Proposed Final Judgement in its current form. In regards to competition, the document is lacking in many fundamental areas. These areas are nothing unique to the Microsfot

situation, it is the way the rest of the computer industry operates and interacts. Some of these problems are:

1. The PFJ fails to require advance notice of technical requirements.
Section III.H.3. of the PFJ requires vendors of competing middleware to meet "reasonable technical requirements" seven months before new releases of Windows, yet it does not require Microsoft to disclose those requirements in advance. This allows Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs. The PFJ needs to require Microsoft to release this information well in advance. Again, this is nothing new to the computer industry, but based on Microsoft's past and continuing behaviour, they need to be required by law to make this happen.

2. API documentation is released too late to help ISVs.
Section III.D. of the PFJ requires Microsoft to release via MSDN or similar means the documentation for the APIs used by Microsoft Middleware Products to interoperate with Windows; release would be required at the time of the final beta test of the covered middleware, and whenever a new version of Windows is sent to 150,000 beta testers. But this information would almost certainly not be released in time for competing middleware vendors to adapt their products to meet the requirements of section III.H.3, which states that competing middleware can be locked out if it fails to meet unspecified technical requirements seven months before the final beta test of a new version of Windows.

3. Many important APIs would remain undocumented.
The PFJ's overly narrow definitions of "Microsoft Middleware Product" and "API" means that Section III.D.'s requirement to release information about Windows interfaces would not cover many important interfaces. Microsoft needs to be forced to document fully all aspects of all API's necessary for vendors to create effective products for the Windows platform.

4. Unreasonable Restrictions are Placed on the Use of the Released Documentation.
ISVs writing competing operating systems as outlined in Findings of Fact (52) sometimes have difficulty understanding various undocumented Windows APIs. The information released under section III.D. of the PFJ would aid those ISVs -- except that the PFJ disallows this use of the information. Worse yet, to avoid running afoul of the PFJ, ISVs might need to divide up their engineers into two groups: those who refer to MSDN and work on Windows-only applications; and those who cannot refer to MSDN because they work on applications which also run on non-Microsoft operating systems. This would constitute retaliation against ISVs who support competing operating systems.

5. File Formats Remain Undocumented.
No part of the PFJ obligates Microsoft to release any information about file formats, even though undocumented Microsoft file formats form part of

the Applications Barrier to Entry (see "Findings of Fact" 20 and 39). This is a critical piece of one of the technical barriers that Microsoft has erected against competition. File formats lie very near the heart of OS operations, and interaction with the kernel and OS structure. This documentation is critical to developers hoping to create software that is innovative and effective.

6. Patents covering the Windows APIs remain undisclosed.
Section III.I of the PFJ requires Microsoft to offer to license certain intellectual property rights, but it does nothing to require Microsoft to clearly announce which of its many software patents protect the Windows APIs (perhaps in the style proposed by the W3C; see http://www.w3.org/TR/2001/WD-patent-policy-20010816/#sec-disclosure). This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents?
This can scare away potential users and developers. While it would seem to hurt Microsoft, in fact, it keeps the Microsoft monopoly intact through Fear, Uncertainty and Doubt. The PFJ, by allowing this unclear legal situation to continue, is inhibiting the market acceptance of competing operating systems.

Microsoft has an army of lawyers that will seek to narrowly define every aspect of any proposed judgement in such a way that it becomes academic for Microsoft to step around the bounds of the settlement. They have demonstrated this behaviour before. I ask that the court educate itself on the terms and definitions, and strive to discourage loopholes based on interpretation of the language. Any settlement needs to have binding power that goes beyond the current Microsoft product offering, and address the behaviour of the company.

Thomas Reilly, the Attorney General for Massachusetts, said this:
"The case against Microsoft is the most important antitrust action of our generation and one that will determine the future of the new economy. Because of its landmark importance, this case should not end without a remedy that restores competition."

Please make a judgement that is effective and enforcable. The computer and the internet have fundamentally changed our lives. To allow one company, through unlawful activities, dictate where this technology will take us, is simply not acceptable. These directions need to be decided by market forces. Please take heed of the many pitfalls that Microsoft will place for its competition, and the desire of this company to avoid any sort of compliance with existing laws.